

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 9th day of March, 1998

BEFORE

THE HON'BLE MR. JUSTICE V. P. MOHAN KUMAR

WRIT PETITION NO.38333 OF 1992

BETWEEN :

M/s. Megha Enterprises,  
represented by its Manager,  
Sri M.S. Pandya,  
No. 13, J.M. Road, Jolly Mohalla,  
BANGALORE - 560 053

.. PETITIONER

(Sri K. Hema Kumar for  
M/s Vasan Associates, Advocate  
for petitioner)

A N D :

1. The Commercial Tax Officer,  
12th Circle,  
BANGALORE - 560 009
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2. The Commissioner of  
Commercial Taxes in Karnataka,  
Vanijya Tharige Karyalaya,  
1st Main Road, Gandhinagar,  
BANGALORE - 560 009

.. RESPONDENTS

(Sri.D'Sa, High Court Govt.Advocate,  
for respondents)

Writ Petition filed under Article 226 of the Constitution of India, praying to; issue a writ of certiorari or a direction in the nature of a writ of certiorari quashing the order of assessment passed under Section 5(4) dated 20-10-1992 (Annexure-"A") and the consequential notice of demand dated 20-10-1992 (Annexure-"B") passed by the first respondent; issue a writ of certiorari or a direction in the nature of a writ of certiorari quashing the clarification bearing No. KTEG.CLR.CR. 164/1989-90 dated 19-5-1990 and KTEG.CLR.CR. 37/1990-91 dated 02-11-1990 (Annexure - "C"); issue such other writ or writs or directions as this Hon'ble Court may deem it fit to grant under the circumstances of the petitioner's case.

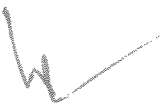
This Writ Petition coming on for Hearing, this day, the Court made the following :

O R D E R

O\_R\_D\_E\_R

The petitioner is aggrieved by the assessment made by the authorities under Section 5(4) of the Karnataka Entry Tax Act, 1979. The main grievance of the petitioner is that the assessment has been completed without issuing a proposition notice.

2. I have heard Mr. K. Hemakumar, learned counsel for the petitioner, and Mr. D'Sa, learned Government Advocate appearing for the respondents. After hearing the respective sides, I am prima facie satisfied that the grievance of the petitioner is well-founded. It is not shown that the authority has issued any proposition notice proposing to enhance the tax as has been done in this case. The assessment has been made without issuing the proposition notice. Under ~~Rule 9~~ <sup>Rule 9</sup> of the Karnataka Entry Tax Rules 1979 the authority is bound to issue a proposition notice under Rule 9 (3) of the Rules and the assessment can be completed only thereafter. In the circumstances, the order in so far as it relates



relates to the assessment made under Section 5(4) of the Act is quashed. The respondent is free to issue a proposition notice under Rule 9 (3) of the Rules and pass appropriate orders in accordance with law. The writ petition is disposed of as above.

Sd/-  
JUDGE

Pkc/Hrp